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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent Application No.: 10/604,216

Confirmation No.: 1215

Applicant(s): FLEISHMAN, David

Filed: July 1, 2003

For: PICTURE HANGING SYSTEM

TC/Art Unit: 3632

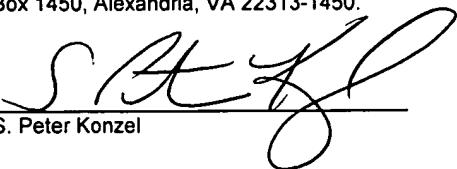
Examiner: WUJCIAK, Alfred

Docket No.: UMBP:110US

Customer No.: 24041

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S. Peter Konzel

REQUEST FOR RECONSIDERATION

Mail Stop Amendment
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Honorable Sir:

This is a reply to the Office Action dated July 2, 2004 regarding the above-identified patent application.

Remarks/Arguments begin on page 2 of this paper.

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Date: October 4, 2004

Remarks/Arguments

Allowable Subject Matter

Applicants courteously thank the Examiner for noting that the subject matter of Claims 13-23 is allowable.

Rejection of Claims 1-12 under 35 U.S.C. §103(a)

The Examiner rejected Claims 1-12 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No.6,327,803 (Ruderman). Applicant respectfully traverses the rejection.

Claim 1 of the present application includes the limitation that the apparatus of the present invention is adapted for displaying at least two works of art comprising first and second frames, each suspended by a pair of wires, wherein the second frame is secured interior of the first frame.

To establish a case of *prima facia* obviousness, three criteria must be met. First there must be some teaching, suggestion or motivation, either in the references themselves or in the knowledge generally available to one having ordinary skill in the art, to modify the references combine the reference teachings. Second there must be some reasonable expectation of success. Finally, the prior art references must teach or suggest all of the claim limitations. In the present case, there is no teaching, suggestion or motivation in the prior art to make the present invention and/or the prior art cited by the Examiner does not teach or suggest all of the limitations. MPEP §2143.

First, Ruderman does not disclose, teach or suggest all claim limitations; Ruderman does not disclose, teach or suggest a device adapted for displaying two works of art. As the Examiner acknowledges, "Ruderman... fails to teach the second frame having second set of wires secured to the rod." Hence, the present invention is non-obvious in this regard.

Second, Ruderman does not disclose, teach or suggest a device for displaying works of art wherein pairs of first and second wires are arranged such that the second pair of wires is interior to the first pair of wires such that the second work is arranged "within" the first work.

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Third, while the Examiner asserts that, "it would have been obvious to one having ordinary skill in the art...to have added additional frame and wires to rod to provide additional art or picture to display," the Examiner fails to provide any evidence to support the assertion that the motivation to make the arrangement emanates from the prior art or that knowledge generally available to one having ordinary skill in the art. As a matter of fact, because the Examiner fails to illustrate from where the motivation is derived, it appears more likely that the motivation emanates from the Applicant's very own disclosure.

Fourth, the modification propounded by the Examiner does not emanate from Ruderman and/or would be contrary to the teachings of Ruderman. Indeed, Ruderman relates to a device for raising and lowering a banner by means of a motor or other mechanical means. Hence, because Ruderman is adapted for raising and lowering a banner, arranging a banner such that one banner work was "nested" within another would result in the works interfering with one another when they were raised (the first banner would not be able to be raised to its highest position). Thus, Ruderman does not contain a teaching, suggestion or motivation to make the combination/modification propounded by the Examiner.

Finally, the Examiner's assertion that "it would have been obvious" is baseless and unsupported by reference to any teachings contained in the prior art. In other words, the Examiner has not illustrated, by citation to specific references, that the motivation to make the combination/modification emanates from that knowledge generally available to one having ordinary skill in the art at the time the invention was made. Furthermore, the Examiner has not presented a convincing line of reasoning as to why an artisan would have found the claimed invention to have been obvious in light of the teachings of the references. MPEP §2142.

In view of the above, Applicant respectfully submits that the Examiner has not established a *prima facia* case of obviousness.

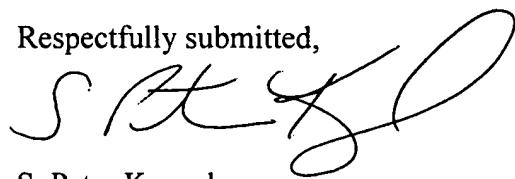
The rejection should be reversed

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Conclusion

Applicant respectfully submits that all pending claims are now in condition for allowance, which action is courteously requested.

Respectfully submitted,



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Dated: October 4, 2004

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U.S. PATENT & TRADEMARK OFFICE

TRANSMITTAL LETTER
(General - Patent Pending)

Docket No.
UMBPO:110US

In Re Application No. **David Fleishman**

Application No. 10/604,216	Filing Date 07/01/2003	Examiner Alfred Wujciak	Customer No. 24041	Group Art Unit 3632	Confirmation No. 1215
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Title: **PICTURE HANGING SYSTEM**

COMMISSIONER FOR PATENTS:

Transmitted herewith is:

- (1) Request for Reconsideration**
- (1) Certificate of Mailing by First Class Mail**
- (1) Acknowledgement Postcard**

in the above identified application.

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Dated: **October 4, 2004**

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